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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,786	11/26/2003	Byron M. Ruch	4388-A1	9056
45848	7590	03/10/2005	EXAMINER	
MICHAEL WINFIELD GOLTRY 340 EAST PALM LANE SUITE 260 PHOENIX, AZ 85004			ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
			3652	

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Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/723,786	<b>Applicant(s)</b> RUCH, BYRON M.	
	<b>Examiner</b> Gregory W. Adams	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to line 4, it is unclear whether the claim requires a frame and a drive arm for the drive linkage and a frame and a drive arm for the second drive linkage. If so, there is no antecedent basis for this in the disclosure. In the alternative, the claim may require one frame for the drive linkage and second drive linkage, and one drive arm for the drive linkage and one drive arm for the second drive linkage. This is not clear, however, and should be clearly defined. This also occurs in claim 11, line 26.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8, 11-13, & 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Dunham (US 2,616,578).
5. With respect to claim 1, referring to FIGS. 1-3 Dunham discloses a vehicle loader mechanism 5, 13 comprising a base 14, lift mechanism 23, 56, drive linkage 38, 42, 52,

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46, 63, 67 coupled between a base 14 and lift mechanism 23, 56, leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled between a base 14 and lift mechanism 23, 56, and a cylinder 15 coupled to a drive linkage 38, 42, 52, 46, 63, 67.

6. With respect to claim 2, referring to FIGS. 1-3 Dunham discloses a drive linkage 38, 42, 52, 46, 63, 67 which includes a drive link 52 pivotally coupled to a base 14, a drive arm 42 pivotally coupled to a drive link 52 and lift mechanism 23, 56.

7. With respect to claim 3, referring to FIGS. 1-3 Dunham discloses a drive linkage 38, 42, 52, 46, 63, 67 includes a drive link 52 pivotally coupled to a base 14, a drive arm 42 pivotally coupled to a drive link 52 and lift mechanism 23, 56.

8. With respect to claim 4, referring to FIGS. 1-3 Dunham discloses a leveling linkage 81, 67, 63, 45, 79, 78, 77 includes a leveling link 76, 78, 77, 63 pivotally coupled to a base 14, stop link 67 pivotally coupled to a leveling link 76, 78, 77, 63, and a rod 39 and leveling arm 45 pivotally coupled to a stop link 67 and lift mechanism 23, 56.

9. With respect to claim 5, referring to FIGS. 1-3 Dunham discloses a vehicle loader mechanism 5, 13 further including a second drive linkage 38, 42, 52, 46, 63, 67 coupled with a base 14 and lift mechanism 23, 56, and a second leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled with a base 14 and lift mechanism 23, 56.

10. With respect to claim 6, referring to FIGS. 1-3 Dunham discloses a vehicle loader mechanism 5, 13 further including a frame 26, 95 pivotally coupled to a base 14 and terminating in a journalled rod 39, 39 which extends through a frame 26, 95, drive linkage frame 26, 95 and drive linkage drive arm 42, and a second drive linkage frame

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26, 95 and second drive linkage drive arm 42 and coupled by a frame 26, 95 to a drive linkage 38, 42, 52, 46, 63, 67.

11. With respect to claim 7, referring to FIGS. 1-3 Dunham discloses a leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled to a rod 39 by a stop link 67 and a second leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled to a rod 39 by a second stop link 67.

12. With respect to claim 8, referring to FIGS. 1-3 Dunham discloses a lift mechanism 23, 56 enabled with a drive linkage 38, 42, 52, 46, 63, 67, and a lift mechanism 23, 56 disabled with a drive linkage 38, 42, 52, 46, 63, 67.

13. With respect to claim 11, referring to FIGS. 1-3 Dunham discloses a vehicle loader mechanism 5, 13 comprising a base 14, lift mechanism 23, 56, first drive linkage 38, 42, 52, 46, 63, 67 coupled between a base 14 and lift mechanism 23, 56, second drive linkage 38, 42, 52, 46, 63, 67 coupled with a base 14 and lift mechanism 23, 56, first leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled between a base 14 and lift mechanism 23, 56, second leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled with a base 14 and lift mechanism 23, 56, frame 26, 95 pivotally coupled to a base 14 and terminating in a journalled rod 39, 39 which extends through a frame 26, 95, drive linkage frame 26, 95 and drive linkage drive arm 42, and a second drive linkage frame 26, 95 and second drive linkage drive arm 42, and a cylinder 15 coupled between a base 14 and frame 26, 95.

14. With respect to claim 12, referring to FIGS. 1-3 Dunham discloses a first leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled to a rod 39 by a first stop link 67, and a second drive linkage frame 26, 95 coupled to a rod 39 by a second stop link 67.

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15. With respect to claim 13, referring to FIGS. 1-3 Dunham discloses a lift mechanism 23, 56 is enabled with a first drive linkage 38, 42, 52, 46, 63, 67 and second drive linkage 38, 42, 52, 46, 63, 67 when retracted and extended, and disabled with a first drive linkage 38, 42, 52, 46, 63, 67 and second drive linkage 38, 42, 52, 46, 63, 67 in between extended and retracted configurations.

16. With respect to claim 16, referring to FIGS. 1-3 Dunham discloses a vehicle loader mechanism 5, 13 comprising a base 14, lift mechanism 23, 56, frame 26, 95 pivotally coupled to a base 14, first drive linkage 38, 42, 52, 46, 63, 67 and second drive linkage 38, 42, 52, 46, 63, 67 coupled in parallel between a base 14 and lift mechanism 23, 56, first drive link 52 pivotally coupled to a base 14, first drive arm 42 pivotally coupled to a first drive link 52 and lift mechanism 23, 56, second drive link 38, 42, 52, 46, 63, 67 pivotally coupled to a base 14, second drive arm 42 pivotally coupled to a second drive linkage drive link 38, 42, 52, 46, 63, 67 and lift mechanism 23, 56, a rod 39 journaled concurrently through a first drive arm 42, frame 14 and second drive linkage drive arm 42, first leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled between a base 14 and lift mechanism 23, 56, second leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled between a base 14 and lift mechanism 23, 56, first leveling link 76, 78, 77, 63 coupled to a base 14, second leveling link 76, 78, 77, 63 coupled to a base 14, first stop link 67 pivotally coupled to a first leveling link 76, 78, 77, 63 and rod 39, first leveling arm 45 pivotally coupled to a first stop link 67 and lift mechanism 23, 56, second stop link 67 pivotally coupled to a second leveling link 81, 67, 63, 45, 79, 78, 77 and rod 39, second leveling arm 45 pivotally coupled to a second stop link 67 and lift mechanism 23, 56.

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17. With respect to claim 17, referring to FIGS. 1-3 Dunham discloses a lift mechanism 23, 56 enabled with a first drive linkage 38, 42, 52, 46, 63, 67 and second drive linkage 38, 42, 52, 46, 63, 67 when retracted and extended, and disabled with a first drive linkage 38, 42, 52, 46, 63, 67 and second drive linkage 38, 42, 52, 46, 63, 67.

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 9, 14, & 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunham (US 2,616,578) as applied to claims 1, 11, & 16 above, and further in view of Olson (US 4,274,794). Dunham discloses a vehicle loader mechanism except for limit switches. Olson '794 discloses a vehicle loader mechanism 10 with limit switches 174, 196 mounted proximate cylinders 66, 108. Olson '794 teaches that limit switches limit maximum frame 16 movement in both directions. Col. 11, Ins. 52-59. Therefore, it would have been obvious to one skilled in the art to modify the vehicle loader mechanism of Dunham to add limit switches proximate cylinders, as per the teachings of Olson, to limit maximum frame movement in both directions.

20. Claims 10, 15 & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunham (US 2,616,578) as applied to claims 1, 11, & 16 above, and further in view of Poindexter (US 5,651,657). Dunham discloses a vehicle loader mechanism except for carrying a base on tracks mountable in a vehicle. Poindexter discloses a vehicle

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loader mechanism 10 including a base 120 carried by tracks 33, 34 mountable in a vehicle. Poindexter '657 teaches that installing a base of a vehicle loader mechanism on tracks mountable in a vehicle with insignificant modifications to the vehicle provides lifting, reorientating, and loading of overheight loads into the vehicle. Therefore, it would have been obvious to one skilled in the art to modify the vehicle loader mechanism of Dunham to allow for carrying a base on tracks which are mountable in a vehicle, as per the teaching of Poindexter, such that insignificant vehicle modifications are required in providing a lifting, reorientating, and loading of overheight loads into the vehicle.

### ***Conclusion***

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US 5,525,019 Moore et al.

US 5,460,460 to Alexander

US 5,078,566 to Ferrence

US 4,975,016 to Pellenc et al.

US 4,890,973 to Frison et al.

US 4,514,127 to Maier

US 2,996,204 to Jensen

US RE 37,215 to Dammeyer et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (703) 305-0555. The examiner can normally be reached on M-F, 8:30am-5pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA



**EILEEN D. LILLIS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**